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| 09/944,348 | 08/31/2001 | Thomas P. Ivanyi | 43868.010200 | 9772 |

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| EXAMINER | |
|---|---|
| SCHNURR, JOHN R | |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 09/944,348 | IVANYI, THOMAS P. | |
| | Examiner | Art Unit | |
| | John R. Schnurr | 2623 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *16 February 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *29-88* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *29-88* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *16 February 2007* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *02/16/2007*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 02/16/2007 have been fully considered but they are not persuasive.

2. In response to applicant's arguments (page 13 2nd paragraph to page 14 3rd paragraph) that there is no motivation to combine US Patent No. 6,177,931 (Alexander) and US Patent No. 6,934,963 (Reynolds) because Alexander provides a television program guide system which incorporates passive and interactive content, which was identified in the Office Action as the benefit provided by Reynolds to Alexander, applicant should note that the hybrid guide disclosed by Reynolds functions as a passive guide until a user indicates a desire to interact with it (column 3 lines 33-36 Reynolds). Therefore, Alexander does not teach a passive/interactive hybrid EPG as disclosed by Reynolds and the motivation indicated in the Office Action is valid.

Applicant further argues (page 14 4th paragraph to page 15 3rd paragraph) that Reynolds does not teach providing television programming over an Internet link. Applicant should note that, as cited in the Office Action, Reynolds discloses communication path 20 may be an Internet link, which distributes television programming (column 9 lines 41-57 Reynolds). Applicant additionally argues that Reynolds does not disclose, "an integral unit for measuring viewer behavior related to television content...comprising: a monitoring device...monitoring an event data generated upon occurrence of an event to ascertain the responses of a viewer to program and advertising content...wherein the programming and advertising content is transmitted to the television with an internet access signal", applicant should note that Alexander teaches these limitations and Reynolds was simply brought in to teach providing television programming via an Internet link.

3. The request for the obviousness-type double patenting rejection to be held in abeyance until such time that the claims are indicated to be allowable is denied. In the interest of compact prosecution the rejection will be withdrawn when the claims of the instant application are no longer obvious over the claims of the patent or a terminal disclaimer is filed, refer to MPEP §1490.

### *Double Patenting*

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent

and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., In re Berg, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887,225 USPQ 645 (Fed. Cir. 1985); In re Van Omum, 686 F.2d 937,214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969). A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

**Claim 29** is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 + 2 + 7 of U.S. Patent No. 6286140 in view of Reynolds et al. (U.S. 6934963 B1).

> "An integral unit for measuring viewer behavior related to television content displayed on a television, the television being situated in one of a plurality of viewing premises, the integral unit comprising:" equates to "a viewer event and tuning..." of claim 1. The examiner equates "devices" at the viewing premises of the patent to "integral unit" of the application. The claimed "television content displayed on a television" equates to "a television signal receiver..." of claim 2. The examiner take official notice that it is notoriously well known in the art for television content to be displayed on a television for the purpose of allowing the viewer to see the television content.
>
> "a monitoring device for uninterrupted and passive continuous monitoring of • viewer behavior at each of the polarity of viewing premises" equates to "a plurality of signal receiving..." and "a viewer event and tuning .... "of claim 1, "the monitoring device monitoring an event data generated upon occurrence of an event to ascertain the responses of a viewer to program and advertising content for the purpose of assessing the effectiveness of the programming and advertising content" equates to "a system for uninterrupted... ;" of claim 1,
>
> "an event timing device for recording a time occurrence of the event and for generating a time-stamped data representative of the time occurrence corresponding to the event data;" equates to "an event timing device..." of claim 1,

"a data latching device for continuous capturing and storing of the time-stamped data and the event data;" equates to "a data latching..." of claim 1,

"a database for storing the time-stamped data and event data captured and stored by the data latching device," equates to "a database for storing..." of claim 1,

"wherein the programming and advertising content is transmitted to the television with an Internet access signal."

The Patent 6286140 fails to teach programming and advertising content to be transmitted to a television via an Internet access signal. The Patent 6934963 B1 teaches programming and advertising content to be transmitted to a television via an Internet access signal (Column 9 lines 40-57 and Figure 2a and Figure 4 teach distributing television programming over the Internet and Column 16 lines 47-63 teaches advertisements being displayed on the screen so advertisements are transmitted with an Internet access signal).

At the time the invention was made it would have been obvious for one skilled in the art to modify the function/device of claim 1, using the Internet access function/device of Reynolds for the purpose of providing a hybrid passive-interactive television program guide system in which passive electronic television program guide content is integrated with an interactive television program guide (Column 1 lines 64-67 and Column 2 lines 1-6, Reynolds).

**Claim 30** is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 + 2 of U.S. Patent No. 6286140. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

The claimed "The integral unit of claim 29, wherein the integral unit is a central processing unit" equates to "a control device for controlling said signal receiving device" of claim 2.

**Claim 31** is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 + 2 of U.S. Patent No. 6286140. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

The claimed "The integral unit of claim 29, wherein the integral unit is a memory device in communication with a central processing unit" equates to "a database for storing the..." of claim 1 and "control device for controlling..." of claim 2. The examiner views the database to be the same as memory. The examiner views "control device" to be the same as a "central processing unit".

**Claim 34** is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 + 3 of U.S. Patent No. 6286140. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

> The claimed "The integral unit of claim 29, wherein the integral unit communicates with an input device to enter commands into the integral unit" equates to "The system of claim 1, wherein .... a viewer input device .... " of claim 3. The examiner notes to be able to control the input device communication would have to occur between the two.

**Claim 48** is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 + 7 of U.S. Patent No. 6286140. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

> The claimed The integral unit of claim 29, wherein the programming and advertising content is transmitted to the television via at least one of a television communication system, a telephone communication system, a wireless communication system and a fiber optic communication system" equates to the system of claim 1, wherein television..." of claim 7. The examiner notes advertising and programming are included in the "television signals."

**Claim 49** is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 + 7 of U.S. Patent No. 6286140 in view of Wignot (U.S. 5532733) further in view of Reynolds et al. (U.S. 6934963 B1).

> The claimed "An integral unit for measuring viewer behavior related to television content displayed on a television, the television being situated in one of a plurality of viewing premises" equates to "a viewer event and tuning alternative..." of claim 1 but fails to teach displaying on a television.

Wignot (U.S. 5532733) teaches displaying television content on a television (Column 2 lines 44-51 and Figure 1 teaches receiving cable television and then having a display device)

At the time of the invention was made, it would have been obvious to a person of ordinary skill in the art to use the displayed on a television function/device of Ivanyi using the television for a display function/device of Wignot for the purpose of being able to see the television content.

> "at least one of the plurality of viewing premises being a public location, the public location being at least one of a hotel, a bar, a hospital, an office, an airport,

a train station and a bus station, the integral unit comprising:" equates to "a plurality of signal receiving..." of claim 1. The examiner notes from the patent that a plurality of viewing premises could include an integral unit in a hotel.

"a monitoring device for uninterrupted and passive continuous monitoring of viewer behavior at each of the plurality of viewing premises, the monitoring device monitoring an event data generated upon occurrence of an event to ascertain the responses of a viewer to program and advertising content for the purpose of assessing the effectiveness of the programming and advertising content" equates to (see rejection of claim 29);

"an event timing device for recording a time occurrence of the event and for generating a time-stamped data representative of the time occurrence corresponding to the event data" equates to (see rejection of claim 29);

"a data latching device for continuous capturing and storing of the time-stamped data and the event data" equates to (see rejection of claim 29); and

"a database for storing the time-stamped data and event data captured and stored by the data latching device, wherein the programming and advertising content is transmitted to the television with an Internet access signal" equates to (see rejection of claim 29).

**Claim 50** is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 + 2 + 7 of U.S. Patent No. 6286140 in view of US Patent 6934963 B1.

The claimed "An integral unit for measuring viewer behavior related to television content displayed on a television, the television being situated in a plurality of viewing premises, the integral unit measuring viewer behavior at less than all of the plurality of viewing premises" equates to (see rejection of claim 49), "the integral unit measuring viewer behavior at less than all of the plurality of viewing premises"

the integral unit comprising: (for the rest of the rejection claim 50 see rejection of claim 49)

**Claim 51** is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 + 2 + 7 of U.S. Patent No. 6286140 in view of US Patent 6934963 B1 further in view of Armstrong et al. (U.S. 6604224 B1).

The claimed "A set top box for measuring viewer behavior related to television content displayed on a television, the television being situated in one or a plurality of viewing premises" equates to (see rejection of claim 49). Armstrong

teaches a set top box being the interactive enabling device (Column 5 lines 23-24), the set top box comprising:

(For rest of the rejection of claim 51 ,see rejection of claim 29)

**Claim 52** is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 + 7 of U.S. Patent No. 6286140. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

(See rejection of claim 34 and the rejection of claim 51 for set top box embodiment.)

**Claim 66** is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 + 7 of U.S. Patent No. 6286140. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

(See rejection of claim 48)

**Claim 67** is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 + 2 + 7 of U.S. Patent No. 6286140 in view of US Patent 6934963 BI.

(See rejection of claim 51 and the examiner views cable box to be the same as set top box)

**Claim 68** is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 + 7 of U.S. Patent No. 6286140. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

(See rejection of claim 34 and the rejection of claim 67 for cable box embodiment.)

**Claim 82** is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 + 7 of U.S. Patent No. 6286140. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

(See rejection of claim 48)

**Claims 35-44, 53-62, 69-78** are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 + 3 of U.S.

Patent No. 6286140 in view of US Patent 6934963 BI. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

> For support of the Official Notice with regards to claims 35-44, 53-62, 69-78 see the rejection below with regards to these claims.

**Claims 45-47, 63-65, 79-81** are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6286140. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

> For the listed claims these are clearly obvious variations of different types of display devices.

At the time the invention was made it would have been clearly obvious for one skilled in the art, to allow for different types of display devices to be able to be used with the integrated unit for the purpose of being able to allow people who had one display device but not the other kind to still be able to buy the integrated unit thus increasing sales.

5. Claims **83-88** are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 2, 4, 5 and 8 of U.S. Patent No. 6,286,140. Although the conflicting claims are not identical, they are not patentably distinct from each other because they are different definitions or descriptions of the same subject matter varying in breadth. For example, note the following relationships between the instant application claims and the patented claims.

a) The preamble of application claim 83 is the same as the preamble of patented claim 1, with the "tuning alternatives" (column 11 line 51) of the patent being an obvious variation of "channel changing events" (page 9 line 23) of the instant application.

b) The claimed "plurality of signal receiving devices..." (page 10 lines 6-7) step of application claim 83 corresponds to the "plurality of signal receiving devices..." (column 11 lines 59-61) step of the patented claim 1.

c) The claimed "monitor device..." (page 10 lines 8-12) step of application claim 83 corresponds to the "means for processing..." (column 12 lines 38-42) of the patented claim 4.

d) The claimed "event timing device..." (page 10 lines 13-14) step of application claim 83 corresponds to the "event timing device..." (column 12 lines 1-4) of the patented claim 1.

e) The claimed "data latching device..." (page 10 lines 15-16) step of application claim 83 corresponds to the "data latching device..." (column 12 lines 5-9) of the patented claim 1.

f) The claimed "database for storing..." (page 10 lines 17-19) step of application claim 83 corresponds to the "database for storing..." (column 12 lines 10-11) of the patented claim 1.

g) Application claim 84 corresponds to the "volume change unit", "mute/unmute unit" and "television on/off unit" (column 12 lines 60-64) of the patented claim 8.
h) Application claim 85 corresponds to the "volume change unit" (column 12 line 62) of the patented claim 8.

i) Application claim 86 corresponds to the "television signal receiver..." (column 12 lines 16-17) step of the patented claim 2.

j) Application claim 87 corresponds to the "device for one of..." (column 12 lines 18-19) step of the patented claim 2.

k) Application claim 88 corresponds to the "transmitter..." (column 12 lines 47-48) step of the patented claim 2.

### *Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims **29-35, 40, 45, 47, 48, 50-53, 58, 63, 65-69, 74, 79, 81, 82** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Alexander et al (U.S. 6177931 B1)** in view of **Reynolds et al. (U.S. 6934963 B1)**.

Referring to **claim 29**, Alexander teaches an integral unit for measuring viewer behavior related to television content displayed on a television, the television being situated in one of a plurality of viewing premises (Column 28 lines 30-32 teaches an EPG that monitors a viewers actions; Column 5 lines 20-53 teaches an embodiment of the unit the EPG resides on), the integral unit comprising:

> a monitoring device for uninterrupted and passive continuous monitoring of viewer behavior at each of the polarity of viewing premises **(Column 29 lines 22-23 teaches continuously capturing information; Column 35 teaches the EPG and related unit are located in a home thus a viewing premise)**, the monitoring device configured for monitoring an event data generated upon occurrence of an event to ascertain the responses of a viewer to program and advertising content for the purpose of assessing the effectiveness of the programming and advertising content **(Column 28 lines 32-44 teaches a user event occurring and the device monitoring the change related to programming and advertising; Column 5 lines 20-53 details a device the EPG resides and functions on)**;
>
> an event timing device for recording a time occurrence of the event and for generating a time-stamped data representative of the time occurrence corresponding to the event data **(Column 28 line 35)**;
>
> a data latching device for continuous capturing and storing of the time-stamped data and the event data **(Column 28 lines 32- 35 teaches the recording of the time and channel change information)**, and
>
> a database for storing the time-stamped data and event data captured and stored by the data latching device **(Column 29 lines 14-21 teaches the data collected by being sent to the headend to be analyzed; Column 5 lines 24-25 teaches the unit containing RAM and ROM type memory)**,

but fails to teach wherein the programming and advertising content is transmitted to the television with an Internet access signal.

In an analogous art Reynolds teaches wherein the programming and advertising content is transmitted to the television with an Internet access signal (Column 9 lines 40-57 and Figure 2a and Figure 4 teach distributing television programming over the Internet and Column 16 lines 47-63 teaches advertisements being displayed on the screen so advertisements are transmitted with an Internet access signal).

At the time the invention was made it would have been obvious for one of ordinary skill in the art to modify the monitoring device of Alexander using the Internet access device of Reynolds for the purpose of providing a hybrid passive-interactive television program guide system in which passive electronic television program guide content is integrated with an interactive television program guide (Column 1 lines 64-67 and Column 2 lines 1-6, Reynolds).

Referring to **claim 30**, corresponding to claim 29, Alexander teaches wherein the integral unit is a central processing unit **(Column 5 lines 23-24 teaches a processor in the integral unit)**.

Referring to **claim 31**, corresponding to claim 29, Alexander teaches wherein the integral unit is a memory device in communication with a central processing unit **(Column 5 lines 23-25)**.

Referring to **claim 32**, corresponding to claim 31, Alexander teaches wherein the integral unit is a memory device in communication with a central processing unit (Column 5 lines 23-25).

Referring to **claim 33**, corresponding to claim 31, Alexander teaches wherein the integral unit is a memory device in communication with a central processing unit (Column 5 lines 23-25).

Referring to **claim 34**, corresponding to claim 29, Alexander teaches wherein the integral unit communicates with an input device to enter commands into the integral unit **(Column 5 lines 24-25 teaches IR input and output and Column 3 lines 20-25 teaches a specific input device a remote control)**.

Referring to **claim 35**, corresponding to claim 34, Alexander teaches wherein the input device is a keypress device **(Column 3 lines 20-25 teaches a specific input device a remote control with keys on it)**.

Referring to **claim 40**, corresponding to claim 29, Alexander teaches wherein the monitoring device further comprises a keypress device **(See rejection of claim 35)**

Referring to **claim 45**, corresponding to claim 29, Alexander teaches wherein the television is a computer monitor **(Column 3 lines 3-7)**.

Referring to **claim 47**, depending on claim 29, Reynolds teaches wherein the television is a personal computer **(Column 14 lines 9-19)**.

Referring to **claim 48**, depending on claim 29, Reynolds teaches wherein the programming and advertising content is transmitted to the television via at least one of a wireless link **(Column 9 lines 40-57)**.

Referring to **claim 50**, Alexander teaches an integral unit for measuring viewer behavior related to television content displayed on a television, the television being situated in one of a plurality of viewing premises, the integral unit measuring viewer behavior at less than all of the plurality of viewing premises **(The examiner does not have to give the preamble any patentable weight since the body of the claim does not depend on the preamble for completeness)**, the integral unit comprising:

> See rejection of claim 29 for the rest of the rejections to the limitations of the claim.

Referring to **claim 51**, see rejection of claim 29 the examiner views a set top box to be the same as an integral unit **(See also Reynolds Figure 4 element 28)**.

Referring to **claim 52**, depending on claim 51, see rejection of claim 34.

Referring to **claim 53**, depending on claim 52, see rejection of claim 35.

Referring to **claim 58**, depending on claim 51, see rejection of claim 40.

Referring to **claim 63**, depending on claim 51, see rejection of claim 45.

Referring to **claim 65**, depending on claim 51, see rejection of claim 47.

Referring to **claim 66**, depending on claim 51, see rejection of claim 48.

Referring to **claim 67**, see rejection of claim 29 the examiner views a cable box to be the same as an integral unit.

Referring to **claim 68**, depending on claim 67, see rejection of claim 34.

Referring to **claim 69**, depending on claim 68, see rejection of claim 35.

Referring to **claim 74**, depending on claim 67, see rejection of claim 40.

Referring to **claim 79**, depending on claim 67, see rejection of claim 45.

Referring to **claim 81**, depending on claim 67, see rejection of claim 65.

Referring to **claim 82**, depending on claim 67, see rejection of claim 66.

8. Claims **36, 39, 41, 54, 57, 59, 70, 73, 75** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Alexander et al (U.S. 6177931 B1)** in view of **Reynolds et al. (U.S. 6934963 B1)** further in view of **Smolen (U.S. 5915243 B1)**.

Referring to **claim 36**, Alexander and Reynolds teach all the limitations in claim 34, but fail to teach wherein the input device is a mouse device.

In an analogous art Smolen teaches wherein the input device is a mouse device **(Column 3 lines 51-54)**.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the combined devices of Alexander and Reynolds using the using mouse input function/device of Smolen for the purpose of allowing a person to answers question on a television to create an information profile **(Column 3 lines 10-15 Smolen)**.

Referring to **claim 39**, Alexander and Reynolds teach all the limitations in claim 34, but fail to teach wherein the input device is a voice-activated input device.

In an analogous art Smolen teaches wherein the input device is a voice-activated input device **(Column 3 lines 51-54)**.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the combined devices of Alexander and Reynolds using voice-activated input function/device of Smolen for the purpose of allowing a person to answers question on a television to create an information profile **(Column 3 lines 10-15 Smolen)**.

Referring to **claim 41**, depending on claim 29, wherein the monitoring device further comprises a mouse device **(see rejection of claim 36)**.

Referring to **claim 54**, depending on claim 52, see rejection of claim 36.

Referring to **claim 57**, depending on claim 52, see rejection of claim 39.

Referring to **claim 59**, depending on claim 51, see rejection of claim 41.

Referring to **claim 70**, depending on claim 68, see rejection of claim 36.

Referring to **claim 73**, depending on claim 68, see rejection of claim 39.

Referring to **claim 75**, depending on claim 67, see rejection of claim 41.

9. Claims 37, 42, 43, 55, 60, 61,71,76, 77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander et al (U.S. 6177931 B1) in view of Reynolds et al. (U.S. 6934963 B1) further in view of Schutte (U.S. 5319454 B1).

Referring to **claim 37**, Alexander and Reynolds teach all the limitations in claim 34, but fail to teach wherein the input device is an optical scanning device.

In analogous art Schutte teaches wherein the input device is an optical scanning device **(Column 5 lines 18-46 teaches a bar code reader)**.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the combined devices of Alexander and Reynolds using optical input function/device of Schutte for the purpose of allowing a person to acquire programs of individual events either in advance of the broadcast of the event over the CATV system or on demand thereby enhancing the system to provide pay per view (PPV) facilities **(Column 1 lines 13-20 Schutte)**.

Referring to **claim 42**, depending on claim 29, wherein the monitoring device further comprises a scanner device **(see rejection of claim 37)**.

Referring to **claim 43**, depending on claim 42, wherein the scanner device further comprises an optical scanner **(see rejection of claim 37)**.

Referring to **claim 55**, depending on claim 52, see rejection of claim 37.

Referring to claim 60, depending on claim 51, see rejection of claim 42.

Referring to claim 61, depending on claim 60, see rejection of claim 43.

Referring to claim 71, depending on claim 68, see rejection of claim 37.

Referring to claim 76, depending on claim 67, see rejection of claim 42.

Referring to claim 77, depending on claim 76, see rejection of claim 43.

10. Claims **38, 49, 56, 72** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Alexander et al. (U.S. 6177931 B1)** in view of **Reynolds et al. (U.S. 6934963 B1)** further in view of **Erlin (U.S. 6275991 B1)**.

Referring to **claim 38**, Alexander and Reynolds teach all the limitations in claim 34, but fail to teach wherein the input device is a magnetic scanning device.

In an analogous art Erlin teaches wherein the input device is a magnetic scanning device **(Column 3 lines 26-35)**.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the combined devices of Alexander and Reynolds using magnetic input function/device of Erlin for the purpose of transmitting financial data read from the magnetic stripe of the card to a receiver that is equipped to receive the data **(Column 1 lines 58-61, Erlin)**.

Referring to **claim 49**, see rejection of claim 29.

Alexander and Reynolds fail to teach a viewing premises being at a public location being at least one of a hotel, a bar, a hospital, an office, an airport, a train station, and a bus station.

In an analogous art Erlin teaches viewing premises being at a public location, the public location being at least one of a hotel, a bar, a hospital, an office, an airport, a train station, and a bus station **(Column 2 lines 63-65 teaches a hotel as a viewing premise; Column 3 lines 10-13 teaches the remote transmits signals to a set top box element 40 in Figure 4)**.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the combined devices of Alexander and Reynolds using a hotel as a viewing premise function/device of Erlin for the purpose of transmitting financial data read from the magnetic stripe of the card to a receiver that is equipped to receive the data **(Column 1 lines 58-61 Erlin)**.

Referring to **claim 56**, depending on claim 52, see rejection of claim 38.

Referring to **claim 72**, depending on claim 68, see rejection of claim 38.

11. Claims **44, 62, and 78** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Alexander et al. (U.S. 6177931 B1)** in view of **Reynolds et al. (U.S.**

**6934963 B1)** further in view of **Schutte (U.S. 5319454 B1)** further in view of **Erlin (U.S. 6275991 B1)**.

Referring to **claim 44**, depending on claim 42, Alexander, Reynolds, and Schutte fail to teach wherein the scanner device further comprises a magnetic scanner.

In an analogous art Erlin teaches wherein the input device is a magnetic scanning device **(Column 3 lines 26-35)**.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the combined devices of Alexander, Reynolds, and Schutte using magnetic input function/device of Erlin for the purpose of transmitting financial data read from the magnetic stripe of the card to a receiver that is equipped to receive the data **(Column 1 lines 58-61, Erlin)**.

Referring to **claim 62**, depending on claim 60, see rejection of claim 44.

Referring to **claim 78**, depending on claim 76, see rejection of claim 44.

12. Claims **46, 64, 80** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Alexander et al. (U.S. 6177931 B1)** in view of **Reynolds et al. (U.S. 6934963 B1)** further in view of **Wignot (U.S. 5532733 B1)**.

Referring to **claim 46**, Alexander and Reynolds teach all the limitations of claim 29, but fail to teach wherein the television is a cable-ready television.

In an analogous art Wignot teaches wherein the television is a cable-ready television **(Column 3 lines 5-59)**.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the combined devices of Alexander and Reynolds using the cable ready television function/device of Wignot for the purpose of allowing viewers to use the tuner of their cable ready television to tune nonscrambled channels directly **(Column 1 lines 28-30 Wignot)**.

Referring to **claim 64**, depending on claim 51, see rejection of claim 46.

Referring to **claim 80**, depending on claim 67, see rejection of claim 46.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John R. Schnurr whose telephone number is (571) 270-1458. The examiner can normally be reached on Monday - Friday, 7:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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